

# 'I'm Just More Afraid of Climate Change Than I Am of Prison'; Feature

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**Highlight:** How a group of five activists called the Valve Turners decided to fight global warming by doing whatever it takes.

## Body

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On Oct. 11, 2016, Michael Foster and two companions rose before dawn, left their budget hotel in Grand Forks, N.D., and drove a white rental sedan toward the Canadian border, diligently minding the speed limit. The day was cold and overcast, and Foster, his diminutive frame wrapped in a down jacket, had prepared for a morning outdoors. As the driver, Sam Jessup, followed a succession of laser-straight farm roads through the sugar-beet fields, and a documentary filmmaker, Deia Schlosberg, recorded events from the back seat, Foster sat hunched in the passenger seat, mentally rehearsing his plan.

When Jessup pulled over next to a windbreak of cottonwood trees, Foster felt the seconds stretch and slow. For months, he'd imagined his next actions: He would get out of the car, put on a hard hat and safety vest, retrieve a pair of bolt cutters from the trunk and walk to the fenced enclosure about 100 feet away. He would snip the padlock that secured the gate and approach the blunt length of vertical pipe in the center of the enclosure — the stem of a shut-off valve for the 2,700-mile-long Keystone Pipeline, which carries crude oil from the tar sands of Alberta to refineries on the Texas coast. He would cut the chain on the steel wheel attached to the stem, and turn the wheel clockwise until it stopped.

What Foster didn't expect was that once he'd broken through the chain-link fence, he would be briefly overwhelmed by the magnitude of what he was about to do. He faced away from the biting wind, and allowed himself to cry. He then put a gloved hand on the steel wheel, which was almost three feet across and mounted vertically as if on the helm of a ship, and began to turn it. For long minutes it spun easily, but then both the wheel and the ground below his feet began to shake. Foster had been told to expect this, but still he hesitated. When he resumed turning, he had to throw his body into the task, at times dangling from the wheel to coax it downward. Finally, he could wrestle it no farther, and the shaking stopped. He felt a profound sense of relief. He replaced the lock on the wheel with a new padlock, sat down and, breathing heavily, began to record himself on his phone. "Hey, I've never shot video for grandkids that I don't have yet," he told the camera, "but I want any grandkids, or grandnephews and nieces or whatever, anybody in any family tree of mine, to know that once upon a time people burned oil, and they put it in these underground pipes, and they burned enough, fast enough, to almost cook you guys out of existence, and we had to stop it — any way we could think of."

Ten minutes before Foster entered the enclosure, Jessup and another supporter each called the operations center of the pipeline's owner, the TransCanada Corporation, and described what Foster was about to do. The company called the sheriff. About half an hour after Foster walked away from the valve station, an officer arrived and arrested Foster, Jessup and Schlosberg.

What neither the sheriff's department nor TransCanada knew, however, was that while Foster was closing off the Keystone Pipeline, four other cross-border pipelines — in Washington, Montana and Minnesota — were being shut

down, too. Together, the pipelines carry nearly 70 percent of the crude oil imported to the United States from Canada.

Foster, who is 53, was charged with criminal trespass and criminal mischief, conspiracy to commit criminal mischief and reckless endangerment. At his bond hearing in Cavalier, N.D., he learned that he faced a maximum sentence of more than 26 years. When prosecutors requested that his bail be set at \$100,000, Foster asked for a chance to speak. "Your Honor," he said, "one of the main reasons for this action is to appear here and see justice done for our children, and to protect the air and land and water that they will require to survive. So it's very important for me to be here in this courtroom, and I wouldn't miss it for the world. I'm — it's terrifying — but I am not going to miss it."

Judge Laurie Fontaine set his bail at \$75,000.

I first met Foster on a pitch-black evening in November 2016, a week after the presidential election, in the community room of a progressive church in Hood River, Ore. Foster and the four others accused of pipeline sabotage, all of whom had been released on bail, had been dubbed the Valve Turners, and this was their first public appearance since their coordinated action. They stood in a self-conscious line before their audience, unsure how to begin.

One by one, they recounted their actions on the morning of Oct. 11. Ken Ward, 61, a longtime environmental activist from New England, closed a shut-off valve on Kinder Morgan's Trans Mountain pipeline near Mount Vernon, Wash. Leonard Higgins, 66, a soft-spoken Unitarian and retired state-government employee from Corvallis, Ore., closed a shut-off valve on the Enbridge Express Pipeline near Coal Banks Landing, Mont. Emily Johnston, 51, an editor and a poet, and Annette Klapstein, 65, a retired attorney for the Puyallup tribe, traveled together from Seattle to Leonard, Minn., and turned the shut-off valves on a pair of pipelines owned by Enbridge. The five men and women said little about themselves, dwelling instead on what they saw as the existential threat of climate change and the inadequacy of available legal remedies. "I'm not courageous or brave," Johnston told the small crowd. "I'm just more afraid of climate change than I am of prison."

Foster, dressed in what I would learn was his standard outfit — Hawaiian shirt, jeans and running shoes — stood at one end of the row, bouncing on his toes. Slight and agile, he can seem much younger than his years, almost impish. "I'm not afraid," he said, grinning.

His companions laughed tolerantly; they had heard this before. "Well, that's good, because you've got the biggest charges," Johnston teased.

The Valve Turners are, for the most part, quiet people. They wear sensible shoes, and several attend church regularly. Most are parents, and one is a grandparent. All are white, all are college-educated and none are truly poor. While all are deeply concerned about climate change, none are immediately threatened by its worst effects: no one's home has flooded, and no one's health has been seriously damaged by heat waves or failed harvests or northward-creeping tropical diseases. All say that it is this relative safety — and the relative advantages of age, race, education and wealth — that makes them feel they have a particular responsibility, as climate activists, to push the boundaries of civil disobedience.

Most Americans treat climate change, as the saying goes, seriously but not literally. We accept the science, we worry about its forecasts. We tell ourselves that the effects won't be as bad as predicted, or that they will happen elsewhere, a long time from now. We tell ourselves that someone else will get serious about fixing the problem very soon. We find some way to blur the causal line between our individual actions and their cumulative effects. This is, in many ways, an eminently reasonable reaction, because it allows us to continue with our daily lives and to tend to the political emergencies of the moment — which are, after all, always numerous.

The Valve Turners take climate change both very seriously and very literally. They are among those whom Ward calls the "climate freakout people" — the scant 2 to 3 percent of Americans who, when asked by Gallup to name the most important problem facing the country today, mention pollution or the environment. They can quote from the work of scientists like James Hansen, the former director of NASA's Goddard Institute for Space Studies in Manhattan, who was an author of a 2008 paper concluding that in order to preserve a planet "similar to that on

which civilization developed and to which life on Earth is adapted,” the concentration of carbon dioxide in the atmosphere needs to be reduced to 350 parts per million or less. (They can also tell you that the current atmospheric concentration of carbon dioxide, which was about 385 parts per million when Hansen and his team published their paper, is now above 407 — higher than it has been in at least 800,000 years.) For a variety of reasons, they have found themselves unable to look away from the scientific consensus that global business as usual is likely to cause, and may well already be causing, unspeakable suffering. With what their admirers call moral clarity and their detractors — including some of their loved ones — call tunnel vision, they’ve decided that their own business as usual must end.

Foster may have made up his mind as early as high school, when he starred in a production of “The Night Thoreau Spent in Jail,” the 1970 play about Thoreau’s refusal to pay a poll tax because of his opposition to the Mexican-American War. “It’s very simple,” the play’s Thoreau tells the local constable. “What the government of this country is doing turns my stomach! And if I keep my mouth shut, I’m a criminal. To my Conscience. To my God. To Society. And to you, Sam Staples.”

The modern environmental movement was born around the time Thoreau adjourned to his cabin on Walden Pond in 1845, but the climate movement — the part of the environmental movement concerned primarily with reducing greenhouse-gas emissions and easing the effects of climate change — is barely 10 years old.

For decades, the predictions of climate scientists inspired little citizen action: In North America, at least, the possible consequences of climate change were too abstract, too distant in time and space, to galvanize a popular movement. But as international negotiations kept stalling, proposed legislation repeatedly staggered toward failure and scientific forecasts worsened, frustration grew among grass-roots environmentalists. In 2008, seven Middlebury College graduates and a Middlebury scholar in residence, Bill McKibben — whose 1989 book, “The End of Nature,” was among the first to take on climate change for a mass audience — founded the advocacy group 350.org, named after the study led by James Hansen. The work of McKibben and his students helped define the goal of the nascent climate movement: reducing the concentration of carbon dioxide in the atmosphere to 350 parts per million or less. In the process, they also defined their opponents. Those who were adding the most carbon dioxide to the atmosphere were the movement’s biggest enemies, and at the head of that list was the fossil-fuel industry.

Climate-movement leaders organized mass demonstrations — in front of the White House, at international climate conferences and elsewhere — but almost from the start, a handful of activists began executing smaller-scale, more confrontational actions, hoping to both rouse complacent sympathizers and shame major emitters. In Utah in 2008, an economics student named Tim DeChristopher, who had grown alarmed about the increasing likelihood of climate scientists’ worst-case scenarios, posed as a bidder at an auction for public-lands drilling rights, placing fraudulent bids for leases on 22,500 acres of land. DeChristopher was convicted of two felonies, sentenced to two years in jail and fined \$10,000.

Like DeChristopher, Ken Ward, a former deputy director and chief operating officer of Greenpeace U.S.A., had become convinced that such actions were essential provocations. “This is the kind of disruption that’s necessary to change politics,” he says.

Nearly six feet tall, Ward has craggy features, thick, dark eyebrows and a professorial air belied by his customary sturdy workwear. In the fall of 2012, he and other activists paid a series of surreptitious visits to Brayton Point, a port on the southeastern fringe of Massachusetts and the home of an aging coal-fired power plant that was, at the time, the state’s largest carbon-dioxide emitter. Posing as bird-watchers, they surveyed the harbor with binoculars.

On May 15, 2013, Ward and a young Quaker sailmaker named Jay O’Hara piloted a 32-foot lobster boat into the Brayton Point ship channel, dropping anchor in the path of a freighter carrying a load of West Virginia coal to the power station. When the freighter neared, Ward and O’Hara alerted the police and the ship’s crew that they were carrying out a peaceful protest. (“This coal is coming from the United States,” a crew member responded. “What’s the problem with that?”) It took the rest of the day to move the boat, which Ward and O’Hara had named the Henry David T. The pair were charged with three misdemeanors and a felony.

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But on the morning the trial was scheduled to begin, the district attorney, Sam Sutter, announced that he had decided not to pursue criminal charges. "Climate change is one of the gravest crises our planet has ever faced," he told reporters gathered in the courthouse plaza. Sutter added that he would join a climate march later that month. (That year, Sutter ran for mayor of the working-class city of Fall River, Mass., and won.) By then, the owners of the Brayton Point station had decided to close it, citing low energy prices and the costs of retrofitting the facility to meet current environmental standards.

Ward moved from Boston to a small town outside Portland, Ore., and began thinking about how he might continue what he and O'Hara started. Quietly, he began to discuss possibilities with core members of the climate movement in Seattle — conversations that would eventually include Michael Foster.

Foster, a family therapist, longtime environmentalist and father of two, had been living in Seattle for two decades, and he'd recently become active in raising awareness about climate change. But his road to the beet fields of North Dakota began years earlier near Houston, now the southernmost endpoint of the Keystone Pipeline.

When Foster was 3, his father was shot and killed on the street in Laredo, Tex. His mother, who left the family a few months earlier, lost custody of her three children to Foster's paternal grandparents. Foster and his siblings were raised in a Houston suburb, Deer Park; his mother remarried, moved to central Texas and maintained an affectionate but somewhat distant relationship with her children. (Not until Foster was in his 20s did she reveal her suspicion that his father, a junior-college professor, had been having an affair with a female student and was shot by a rival.)

Despite the upheaval of his early years, Foster remembers his childhood as a happy one. His paternal grandfather worked for the Shell oil refinery whose smokestacks still punctuate the Houston skyline, and his grandparents were able to raise Foster and his siblings in relative comfort.

Foster's grandmother died of cancer when he was in eighth grade, and he responded to the loss, in part, with a tent-revival religious conversion, becoming a Baptist. Foster believed that his future lay in the ministry, and he eagerly anticipated the return of the traveling preacher who had drawn him into the church. But as he sat with other believers in his high school auditorium, watching his mentor prowl the same stage where Foster had pretended to be Thoreau, he saw only artifice. "He was promoting his television show, he was asking for money," Foster says. "I'd learned something about performance, and I could see this was a performance." He walked out of the auditorium, and out of the church, with a lifelong horror of hypocrisy.

Foster first encountered the notion of climate change when his high school debate team was assigned to research energy independence. In Texas in the 1970s, support for increased domestic oil production was practically a requirement for residency, but the team had to argue both sides of the issue, so they studied the prospects for energy sources at home and abroad. One day, an upperclassman gave Foster an interesting tip: At Exxon, where some students' parents worked, company scientists had considered the effects of carbon-dioxide emissions on the climate and concluded that humanity would soon have to wean itself off fossil fuels.

"It was just this goofy, weird piece of information," Foster remembers. "We couldn't even figure out how to use it — was it an argument for energy independence, or against it?" In 2015, when news broke that Exxon scientists had indeed studied the causes and effects of climate change for decades, Foster would remember how he and his fellow debaters failed to understand that the industry on which their families depended might also be upending their world.

Foster studied theater at the University of Houston and found work performing Shakespeare in local schools. Theater led him to Louisville, Ky., where he returned to school for a degree in counseling, hoping to channel his love for children and the outdoors into a career as a wilderness therapist. After graduation he moved to the Pacific Northwest, where he worked for a succession of outdoor education programs. He also reconnected with his college girlfriend, who was working in Seattle, and in 1999, they married.

They soon had two children. Foster took enthusiastically to fatherhood; the violent death of his own father had given him an early lesson in the uncertainty of life, and he delighted in providing his family with the sense of security he

had lost. "My friends started complaining that I wouldn't spend time with them because I insisted on being home for bedtime," he says. "I was just so happy — ridiculously happy."

But Foster was increasingly troubled by one particular threat to his family. In high school, he regarded the heating of the planet by humans as a goofy rumor, but he'd since come to see it as a credible, even pressing, concern. During the summer of 1988, when he was 23, he turned on the television just as Hansen was testifying before the Senate Energy and Natural Resources Committee on global warming. "It is already happening now," Hansen said at the hearing.

That's it, Foster remembers thinking. Now Congress knows. Now it's going to be fixed.

It wasn't fixed, of course. Through the 2000s, Foster worked as a therapist and an outdoor educator, finding solace in the connections he forged between kids and the rest of the living world. But he knew that the concentration of greenhouse gases in the atmosphere was increasing, and he knew that its heaviest consequences — more extreme droughts, floods, fires and storms — would be borne by his children's generation and those that came after it.

He felt compelled to do more, and in the summer of 2012, at the suggestion of a friend, he traveled to San Francisco for climate-change activism training run by Al Gore. When he returned home, he adapted Gore's famous PowerPoint presentation for younger audiences, adding stories about kids who planted trees, built their own wind turbines and sued the United States government over its inaction on climate change.

Soon Foster was talking about climate change to hundreds of students every month. He worked with a group of kids who were suing the state of Washington over its climate policy. In 2013, he and Emily Johnston helped found 350Seattle.org, which became part of an intensifying campaign against the expansion of fossil-fuel infrastructure in the Pacific Northwest, successfully opposing the construction of several new coal and oil export terminals in Washington and Oregon. In May and June 2015 in Seattle, Foster, Johnston and hundreds of other activists tried to prevent the departure of Royal Dutch Shell's offshore oil rig, the Polar Pioneer, by forming chains of kayaks and canoes; the following month, Foster joined another boat blockade, in Portland, that tried to stop a Shell icebreaker from leaving for the Arctic. Though both vessels eventually proceeded north, Shell officials were reportedly surprised by the strength of the opposition and the coverage it garnered. In September, citing the disappointing results of its exploration, the company abandoned its Arctic drilling operations. For Foster, it was a revelation: He had put his body in the way of the polluters, and the polluters had turned back.

In the late summer of 2016, an acquaintance invited Foster to a meeting with Ward and a small group of other activists but warned Foster that his very attendance could make him an accessory to a felony. Foster didn't hesitate. "How lovely!" he remembers saying. "I've been waiting!"

On Oct. 9, 2016, Ward left for northwestern Washington, Higgins for Montana, Klapstein and Johnston for Minnesota and Foster for North Dakota. They agreed that their actions would be nonviolent and that they would willingly accept the consequences in court. All five have faced or are facing trials in the states where their actions took place, and in each, they have sought to use the "necessity defense" — to argue that they broke the law because they had exhausted all legal means to reduce or eliminate a clear and present danger, namely the threat of climate change. The necessity defense, traditionally applied to crimes committed to head off immediate physical threats, has been permitted only rarely in civil-disobedience cases, and it has almost never succeeded. But for the Valve Turners, its articulation is a deliberate extension of their campaign, a way to publicly express the urgency they feel. "It's both practical and political," says Lauren Regan, the executive director of the Civil Liberties Defense Center in Eugene, Ore., and the lead attorney in Ward's case. "Talking about this as a necessity — that really pushes the conversation in a direction the movement wants it to go."

The Valve Turners see their actions as complementary to the rest of the climate movement, as adding an offense to a movement that has so far played mostly defense — as it did during the mass protests against the proposed Dakota Access Pipeline in 2016 and early 2017, which were led by the Standing Rock Sioux and other tribes.

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Foster says: "I'd participated in all these different protests, but how much of the poison had I actually stopped? That I had a chance to take a major action against the existing flow — God, finally."

But the Valve Turners' tactics are not popular within the environmental movement as a whole and remain controversial even within the climate movement. While the national leadership of 350.org offered its support to the Valve Turners after their arrests, the response from mainstream environmental groups was subdued; for some, the shut-offs were reminiscent of the anonymous vandalism carried out by groups like Earth First! and the Earth Liberation Front beginning in the 1980s, which enabled opponents to demonize environmentalists as domestic terrorists.

DeChristopher, who went on to study divinity at Harvard, has worked with several of the Valve Turners through the New England-based Climate Disobedience Center, which provides strategic support to climate activists practicing civil disobedience. He says their willingness to assume responsibility, and to publicly explain their actions, distinguishes their strategy from that of anonymous saboteurs. "If you do something and then run away, that gives your opponents a huge opportunity to come in and say, 'Let me tell you who these people are and why we should go after them,'" he says. "If you stand your ground and tell your story, that puts a face on it, and it can have an entirely different effect."

This theory was tested when Ward, whose case was the first to go to trial, appeared in court in the small city of Mount Vernon, in far northwestern Washington State, on a cold, bright January morning last year. The judge, Michael Rickert, did not allow Ward to use a necessity defense, ruling that Ward had not exhausted his legal options. Ward was charged with both burglary and sabotage — which, in Washington, is defined in part as willful interference with a commercial enterprise — and as Rickert dryly pointed out, the case was "not exactly a whodunit." The jury even watched a video of Ward cutting the chain that secured the emergency valve of Kinder Morgan's Trans Mountain pipeline. But after nearly six hours of sometimes heated deliberation, the jurors announced that they could not come to a decision on either charge. They told me that all were in favor of conviction except for one, who maintained that Ward's primary intent was not to break the law but to make a point about climate change.

The judge declared a mistrial based on the hung jury, and Ward was tried again five months later, in June. This time, he was convicted of burglary, but once again the jurors could not reach a decision on the sabotage charge. The second jury was even more divided than the first: a retired nurse who voted against conviction on the sabotage charge described Ward as a "hero," while the presiding juror, Donald Munro, voted for conviction on both counts, calling Ward a "jerk" who "did it to get attention."

Another juror, Warren Wicke, a former corporate recruiter who retired to Mount Vernon, voted against a sabotage conviction, calling the charge "overkill," and described Ward as a "good man." But like many of the other jurors I interviewed, he has his reservations about Ward's strategy. "I'm worried about somebody trying to outdo him, somebody doing something more outrageous for the sake of publicity," he said.

The maximum penalty for second-degree burglary in Washington is 10 years in prison and a \$10,000 fine. After the prosecution decided not to pursue a second retrial on the sabotage charge, Judge Rickert sentenced Ward to two days in prison and 30 days of community service, which Ward, an experienced carpenter, fulfilled this summer by working for the local Habitat for Humanity chapter. "Do I think that Mr. Ward's behavior's going to change if he spends 90 days in jail? No," Rickert said at the sentencing. "Would putting Mr. Ward in jail change the behavior of other people from throwing the tea off the boat or shutting off the oil pipeline? I don't think so."

Most of the Valve Turners say that their acute concern about climate change, and their decision to break the law because of it, have come with significant personal costs. Some have lost friends and partners, and all have found that "climate freakout people" are not popular at parties. Still, most have reached an accommodation with those who don't share their alarm.

Foster has found such accommodations — with himself, with others — nearly impossible. When Foster committed himself to the climate movement, he also recruited his children, then 8 and 10, to march and speak alongside him.

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His older child, now a cleareyed 16-year-old, says that both siblings were initially happy to participate — in part because it gave them a chance to spend time with their father, whom they saw less and less of as his activism increased. But before long, they felt pressured. “When we would try to refuse, when we would say, ‘Hey, I’m tired,’ or ‘Hey, I have homework,’ or ‘Hey, I have school today,’ it would be: ‘Don’t you care about the planet? Don’t you care about the future?’” the older child explains. “That felt awful, because of course we cared, of course we wanted to do our part. But it felt like he was using our voices to spread his message.”

Foster was also determined that his household reduce its own carbon footprint. He tried to talk his family out of a Hawaiian vacation and other travel. He tried to talk them out of buying a Christmas tree and getting a cat. “Everything I do and don’t do today, to pollute or stop polluting, changes what lives and dies on the planet for the next 300 years — in a very specific, particular way,” he told me. “I can’t let myself off the hook.”

He couldn’t let his family off the hook either, and resentments deepened. “When people asked me how things were going, how I was doing, I’d say, ‘He’s doing important stuff, and it matters,’” says his ex-wife, Malinda, who asked that her last name and her children’s names not be used to protect her family’s privacy. “I’d also say, ‘I really respect Gandhi, but I wouldn’t want to be married to him.’” Both Malinda and her older child say they felt constantly judged, and frustrated, by Foster’s inflexibility. In 2014, Malinda filed for divorce, and his children said they no longer wanted to be part of his activism — or part of his life.

Malinda says the emotional scars Foster left are profound. “I think he believes he is doing what’s right, and he would be the first to say he’s doing this to protect his kids,” Malinda told me. “What’s tragic is that he’s traumatizing his kids’ present, and what good is the kids’ future without their present?” Things might have been different, Foster’s older child added, if he had presented climate change to his kids as something to be aware of, not something to fear. If he had responded to their occasional reluctance with understanding instead of anger. If he had listened. “When I hear someone mention climate change now, I just feel this overwhelming guilt,” Foster’s older child said. “I think, 27 trees. I’ve only planted 27 trees. I haven’t done enough. I have so much further to go.”

After his divorce, Foster, who had already closed up his private therapy practice to focus on climate activism, moved into a room in a house owned by two fellow activists. He now lives on less than \$500 a month, usually traveling by bus, train or bicycle. While low-carbon living affords him some peace of mind, he can’t entirely eliminate his own impact on the climate, and he sometimes stands in the grocery store, wondering what he can possibly justify eating. He is not in regular contact with his family — a situation that clearly pains him deeply — and his voice still shakes when he talks about his children. “I am so sorry that I was not able to listen, or sit still enough, or be present with them enough so that they could share whatever they were feeling,” he says now. “I failed to stay close and safe, and be somebody they could count on, and that will always be my single greatest shame.”

Foster’s trial began in Cavalier, a tiny town in North Dakota, on Oct. 2 of last year, and after two and a half days of testimony, the jury convicted him of felony criminal mischief, felony conspiracy to commit criminal mischief and criminal trespass, a misdemeanor. He was found innocent only of reckless endangerment. Foster’s co-defendant, Sam Jessup, a 32-year-old carpenter who accompanied him to the valve and live-streamed its closing, was convicted of felony conspiracy to commit criminal mischief and misdemeanor criminal conspiracy. (The charges against Schlosberg were dropped.) In pretrial hearings, Judge Fontaine ruled that Foster and Jessup would not be allowed to mount a necessity defense, just as the judges had ruled in Ward’s case in Washington and Leonard Higgins’s in Montana. Lawyers for the two other Valve Turners, Emily Johnston and Annette Klapstein, were able to persuade the judge to allow that defense in their forthcoming trial, but the decision has been appealed by the prosecution. As a result, the climate scientist James Hansen, who attended Foster and Jessup’s trial, was not allowed to testify, but it’s very unlikely that more information about climate change would have altered the verdict.

Unlike the divided jurors in Ward’s trial, all the jurors in Cavalier were persuaded that Foster and Jessup were guilty of something. “If you want to protest, you can protest,” one juror told me, “but you can’t go on to someone else’s property and destroy things.” Lonny Johnson, the TransCanada employee who visited the site after Foster turned the valve, testified that the valve wasn’t designed to be closed against pressure as Foster had done, but that he’d found no cracks or leaks when he inspected it. The prosecutors, however, argued that a leak could have caused a fire or explosion or polluted the nearby Pembina River. During jury selection, several potential jurors said that they

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had heard about Foster's action while listening to police scanners and had been so frightened by the potential consequences that they did not feel they could serve on the jury.

After his conviction, Foster returned to Seattle to await sentencing. He continued to plant trees, give slide shows and talk publicly about his decision to turn off the Keystone Pipeline, and he gave several guest sermons at liberal churches, some inspired by Thoreau's essay "On the Duty of Civil Disobedience." "Hilarious to think my emotional experience is no different today," he told me in a text.

On Feb. 5, he and Jessup were back in Cavalier for their sentencing, accompanied by Klapstein, Higgins and family members. The temperature was well below freezing even at midday, and the frosted streets were quiet. That evening, in the bar of the town's only motel, the two prosecuting attorneys sat together, while Foster and his group ate dinner just a few feet away. Foster was in a reflective mood. "It's so strange to think that tomorrow I could get 21 years — or I could be free for lunch," he said.

The next morning, inside the century-old county courthouse, Judge Fontaine asked if Foster wanted to make a statement before his sentencing. "Yes, Your Honor," Foster said.

Apologizing pre-emptively for his tendency to "start preaching," Foster spoke for almost 20 minutes, invoking the Rev. Martin Luther King Jr., Gandhi and Thoreau. "I don't know if this action was effective," he said. "If somebody else, somewhere down the line, takes some meaning from what I did and they apply it in the way that they see fit, that's what my action was meant to do."

Jessup, weighing his words carefully, spoke next. "For my entire adult life, I've been concerned about this issue," he said. "I came to North Dakota because I had a hope that through the necessity defense, the people of North Dakota would be given the opportunity to consider the evidence and weigh in, participate in a public deliberation in a way that I haven't seen." He added, "I don't think that this was a perfect realization of that vision."

Judge Fontaine announced a short recess. "This is not a typical criminal case," she said when she returned. She had rejected the necessity defense because, in her view, there were still legal means to address climate change. "If you can't convince the government, then you convince the people," she said, "and it seems to me the way you convince the people in this world is by 60-second sound bites, by commercials."

She had, she said, received many letters on Foster's behalf, most describing him as generous to his community and as doing exemplary work with kids. A few, however, described him as narcissistic and attention-seeking. "You like being in front of the camera, you like all the attention," she said. "Everything about you, and everything you've said to me, is this was the right thing to do, this is what I'm called to do, this is what I have to do. So nothing about that tells me you wouldn't do the same thing next month, next year, next week."

Judge Fontaine sentenced Foster to three years in prison, with two of those years to be suspended and served on supervised probation. Jessup was given a suspended sentence of two years. When the hearing ended, two officers approached Foster. He stood, and as he silently mouthed, "I love you," to his supporters in the front row, he was escorted out of the courtroom. Jessup stayed behind the defense table, looking lost.

The next afternoon, Higgins and I visited the county jail, an 18-bed operation tucked behind the courthouse. We stood in the cramped cinder-block visiting booth, separated from Foster by a thick sheet of Plexiglas, and took turns speaking to him through a phone handset. Foster was dressed in bright orange prison scrubs topped with a matching sweatshirt, and he looked tired but happy. Higgins, whose own sentencing for felony criminal mischief and misdemeanor criminal trespass is scheduled for March 20, teased Foster about his new wardrobe, and Foster laughed. "I'm going to miss everyone," he said. "The isolation's going to be hard." He would miss fresh air too. Thoreau's cabin wasn't much bigger than a jail cell, but he got to go outside whenever he liked. Foster acknowledged, though, that he was there by choice, and said he had regrets about his statement to the judge. "I blew it. I really didn't speak to her concerns." But for the moment, at least, he felt as if he were in the right place. Then he paraphrased the man he portrayed onstage 30 years ago: "If society is unjust, the only just place for a person is in jail."



## 'I'm Just More Afraid of Climate Change Than I Am of Prison'; Feature

Michelle Nijhuis is a project editor at The Atlantic who also writes about science for various publications, including National Geographic. This is her first article for the magazine.

PHOTOS: Emily Johnston, Annette Klapstein, Leonard Higgins, Foster and Ken Ward near Seattle in January. (MM42-MM43); Michael Foster, before his sentencing. (PHOTOGRAPHS BY KATY GRANNAN FOR THE NEW YORK TIMES) (MM45); Emily Johnston (left) and Annette Klapstein, two of the valve turners, at a tar-sands pipeline site near Leonard, Minn. (PHOTOGRAPH BY STEVE LIPTAY) (MM46)

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